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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/805,811 | 03/22/2004 | Kevin T. Marks | 016295.1576 | 1073 |

7590 11/03/2006

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EXAMINER

WALTER, CRAIG E

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| ART UNIT | PAPER NUMBER |
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2188

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|

10/805,811

3/22/04

Marks, K.

016295.1576

EXAMINER

C. Walter

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| ART UNIT | PAPER |
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2188

20061027

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Notice of non-responsive amendment attached.


Craig E Walter
Examiner AU 2188

Response to Amendment

1. The reply filed on 22 September 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

According to MPEP § 714.02, "The requirements of 37 CFR 1.111(b) must be complied with by pointing out the specific distinctions believed to render the claims patentable over the references in presenting arguments in support of new claims and amendments". Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language *of the each of the four independent claims* patentably distinguishes them from the references.

More specifically, Applicant contends that Horst does not involve the use of a memory or journal that receives each rebuild command and works in conjunction with a cache to manage the rebuild of a drive, however fails to specifically point out which, if any, of the independent claims recite this limitation. It is not immediately apparent to the Examiner where exactly each of the four claims recite "the use of a memory or journal that receives each rebuild command and works in conjunction with a cache to manage the rebuild of a drive". Examiner notes that claim 10 is the only independent claim that recites the use of a journal, however it is unclear how it "works in conjunction with a cache". Applicant further contends that Horst does not teach or disclose "wherein each rebuild command directed to the drive is at least temporarily recorded in the second non-volatile memory during the period that the cache of the drives is enabled". Though Examiner concedes that claim 1 recites this very limitation, this limitation is not

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present in the remaining four independent claims. Examiner concludes that Applicant has failed to meet his/her burden of addressing each and every rejection set forth in the previous Office action (namely the rejections of claims 5, 10 and 18), and therefore has failed to point out the specific distinctions *in the claims* that are believed to render the claims patentable.

2. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

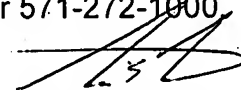
Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig E. Walter whose telephone number is (571) 272-8154. The examiner can normally be reached on 8:30a - 5:00p M-F.

4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (571) 272-4210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Craig E Walter
Examiner
Art Unit 2188

CEW



HYUNG SOUGH
SUPERVISORY PATENT EXAMINER